

STATE OF SOUTH CAROLINA

Sandi Perry v. South Carolina Electric & Gas
Company

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2009 - 25 - E

(Please type or print)

Submitted by: K. Chad Burgess

SC Bar Number: 69456

Address: SCANA Corp.
1426 Main Street MC 130
Columbia, SC 29201

Telephone: 803-217-8141

Fax: 803-217-7931

Other: _____

Email: chad.burgess@scana.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Affidavit	<input checked="" type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		



February 25, 2009

K. Chad Burgess
Senior Counsel

chad.burgess@scana.com

VIA ELECTRONIC FILING

The Honorable Charles Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive (29210)
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: Sandi Perry v. South Carolina Electric & Gas Company
Docket No. 2009-25-E

Dear Mr. Terreni:

South Carolina Electric & Gas Company ("SCE&G") hereby files its Motion to Dismiss the complaint of Ms. Sandi Perry in the above-captioned docket.

By copy of this letter, we are serving this response on Ms. Perry as well as counsel for the South Carolina Office of Regulatory Staff and enclose a certificate of service to that effect.

If you have any questions, please advise.

Very truly yours,

K. Chad Burgess

KCB/kms
Enclosure

cc: Ms. Sandi Perry
Shannon Bowyer Hudson, Esquire
(via first-class mail w/enclosure)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-25-E

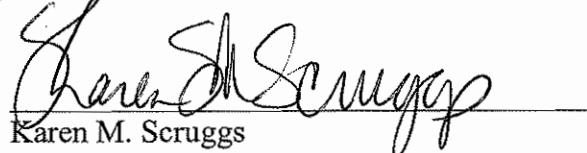
IN RE:

Sandi Perry,)	
)	
Complainant/Petitioner)	CERTIFICATE
)	OF SERVICE
v.)	
)	
South Carolina Electric & Gas Company)	
)	
Defendant/Respondent.)	
)	

This is the certify that I have caused to be served this day one (1) copy of South Carolina Electric & Gas Company's **Motion to Dismiss and Affidavit** via First Class U.S. Mail to the persons named below at the addresses set forth:

Sandi Perry
2274 Ashley River Road
#117
Charleston, SC 29414

Shannon Bowyer Hudson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201


Karen M. Scruggs

Columbia, South Carolina

This 25th day of February 2009

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-25-E

IN RE:)	
)	
Sandi Perry,)	
)	
Complainant/Petitioner,)	
)	
v.)	MOTION TO DISMISS OF
)	SOUTH CAROLINA
South Carolina Electric & Gas Company,)	ELECTRIC & GAS COMPANY
)	
Defendant/Respondent.)	
_____)	

Pursuant to 26 S.C. Code Ann. Regs. 103-829 (1976, as amended) and applicable South Carolina law, South Carolina Electric & Gas Company (“SCE&G” or “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the grounds that the complaint fails to assert any facts sufficient to state a claim upon which relief can be granted. As the complaint fails to make any allegation of a violation of the applicable statutes or regulations under the Commission’s purview, this matter should be dismissed.

BACKGROUND

This matter arises from a complaint filed by Ms. Sandi Perry (“Ms. Perry”) with the Commission on or about December 29, 2008 (“Complaint”) concerning her electric bill. In essence, Ms. Perry claims that she is owed a refund from SCE&G for the electric services provided to her because her heating unit was not working properly. In her complaint, Ms. Perry

admits that, “[m]y heater made noise and sounded like it was working”, but discovered after about a month of use that her heating unit was not properly warming her apartment. [See Complaint p. 1]. In summary, Ms. Perry alleges that even though her heating unit was consuming electricity but not adequately warming her apartment SCE&G should be ordered to refund her approximately \$100 for the electric service it provided.

SCE&G began providing electric service to Ms. Perry’s residence (2274 Ashley River Road, Apt. 117, Charleston, South Carolina) on December 26, 2007. By billing statement dated January 11, 2008, the Company charged Ms. Perry for electric services provided during the billing period December 26, 2007 – January 7, 2008 in the amount of \$46.61. Attached to this Motion as Exhibit A is a copy of Ms. Perry’s billing statement dated January 11, 2008.

By billing statement dated February 12, 2008, SCE&G charged Ms. Perry for electric services provided during the billing period January 8, 2008 – February 8, 2008 in the amount of \$115.59. Attached to this Motion as Exhibit B is a copy of Ms. Perry’s billing statement dated February 12, 2008.

Upon information and belief, sometime in mid to late October 2008, Ms. Perry contacted the South Carolina Office of Regulatory Staff (“ORS”) and complained that she did not consume the amount of electricity billed to her by SCE&G on January 11, 2008, and that she did not consume the amount of electricity billed to her on February 12, 2008. The basis for Ms. Perry’s complaint to ORS was that because her heating unit was not working properly in that it failed to adequately warm her apartment she therefore could not have consumed the amount of electricity measured by SCE&G during these time periods.

In response to Ms. Perry’s complaint to ORS, SCE&G, on November 7, 2008, tested the electric meter (Meter No. 000544406) that measured the electricity consumed at 2274 Ashley

River Road, Apt. 117, Charleston, South Carolina during the time period December 26, 2007 through February 8, 2008. The meter tested within the Commission's guidelines for accuracy. SCE&G reported its testing results to ORS who in-turn by letter dated November 21, 2008, informed Ms. Perry that the electric meter used to measure electricity consumed at 2274 Ashley River Road, Apt. 117, Charleston, South Carolina was working properly and provided her with a copy of the meter test results.¹ Attached to this Motion as Exhibit C is a copy of the meter test results.

ARGUMENT

As an administrative agency, the Commission's jurisdiction and power is limited by statute. See Kiawah Property Owners Group v. Public Serv. Comm'n of S.C., 359 S.C. 105, 109, 597 S.E.2d 145, 147 (2004) ("The PSC is a government agency of limited power and jurisdiction, which is conferred either expressly or impliedly by the General Assembly."). The Commission's jurisdiction is limited to the adjudication of any claimed act or omission for an electric utility allegedly in violation "of any law which the commission has jurisdiction to administer or of any order or rule of the commission." S.C. Code Ann. § 58-27-1940. However, in this instance, Ms. Perry's complaint fails to identify, allege, or complain of any act or omission by SCE&G which forms the basis of a complaint cognizable under the law. Therefore, the Complaint should be dismissed because it fails to state a claim for which the Commission has jurisdiction and fails to state any cause of action against SCE&G.

Ms. Perry's protest is that, in essence, she should not be burdened with having to pay for the electricity consumed at her residence and is therefore, owed a refund from SCE&G for the electric services provided because her heating unit was not working properly in that it failed to

¹ By letter dated January 21, 2009, ORS filed in this docket a copy of the letter that it had sent to Ms. Perry.

adequately warm her apartment. There is no dispute that the premises consumed electricity. By Ms. Perry's own admission, "[m]y heater made noise and sounded like it was working." [See Complaint p. 1]. The fact that Ms. Perry's heating unit was working but not adequately warming her apartment does not obligate SCE&G to refund Ms. Perry any money. The responsibility for properly functioning customer appliances lies with the customer, not with the utility.

The energy usage was metered and Ms. Perry, like all other SCE&G customers, is charged for electricity consumed as reflected by the meter. The meter monitors electric usage. Moreover, the meter was tested and found to be in proper working condition and measuring energy consumption correctly. Ms. Perry asserts that her heating unit was working albeit improperly. Regardless of whether Ms. Perry's heating unit was inadequately warming her apartment, electricity was consumed. Accordingly, the complaint has failed to allege any violation for this Commission to consider.

There is no dispute over whether the meter accurately recorded the energy usage, no dispute over whether the bill was calculated correctly based on such usage, and no allegation has been made nor any claim asserted that SCE&G has acted inappropriately or violated any applicable statute or regulation. Quite simply, no claim of wrongdoing has been plead.

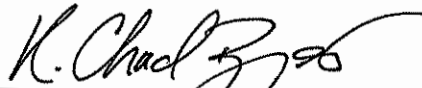
As a final note, the Complaint is related to her electric bills dated January 11, 2008 and February 12, 2008. Ms. Perry fully paid for the amounts on both these bills. It was not until mid to late October 2008 when Ms. Perry contacted the South Carolina Office of Regulatory Staff to complain about the January and February 2008 billing statements. Because Ms. Perry significantly delayed in making a claim, the Complaint should be dismissed under the doctrines of waiver, estoppel, and laches.

No facts or allegations have been asserted that could form the basis for any claim of relief and as a result, there is nothing for the Commission to adjudicate. Therefore, this matter should be dismissed.

CONCLUSION

The Complaint fails to state a cause of action. There is no allegation of any act or thing done or omitted to be done by SCE&G which forms the basis for a complaint cognizable under the law. For these reasons, this motion to dismiss should be granted and this matter dismissed.

Respectfully submitted,



Catherine D. Taylor, Esquire
K. Chad Burgess, Esquire
1426 Main Street, MC 130
Columbia, South Carolina 29201
Telephone: 803-217-8141
Facsimile: 803-217-7931
cdtaylor@scana.com
chad.burgess@scana.com

Attorneys for Defendant/Respondent
South Carolina Electric & Gas Company

Columbia, South Carolina
February 25, 2009

Exhibit A

Page 1 of 2

Account Number: [REDACTED]

A late payment charge of 1.5% will be added to any balance remaining 25 days after billing. Please make checks payable to SCE&G.

RG 092 06 6210076880046 15543 **R022
SANDI PERRY
2274 ASHLEY RIVER RD APT 117
CHARLESTON SC 29414-4738

Total Amount Due on 02/01/08	\$ 46.61
Amount Enclosed	

SCE&G
Columbia, SC 29218

62100768800460100000000000001080000004661

IMPORTANT: Please return this portion with your payment so that the return address shows in the envelope window.



Statement Date: January 11, 2008

Page 1 of 2

Account Number: [REDACTED]
Activation Code: 0067

Name: SANDI PERRY
Service Address: 2274 ASHLEY RIVER RD APT 117
CHARLESTON SC 29414-4738

C 15543

Electric Meter read on 01/08/08 at 03:10 P.M. Next reading on or about 02/08/08.

	01/08	01/07
Avg Temp	52	N/A
KWH	417	N/A
Days	13	N/A
Cost	\$42.92	N/A

Electric - Rate 006 - Energy Saver/Conservation					
Meter #	Billing Period	Days	Meter Reading	Constant	KWH
000544406 - Apartment	Dec 26 - Jan 08	13	91675 to 92092	1	417
Basic Facilities Charge				\$	3.37
417 KWH					38.30
Subdivision Lighting					3.58
Franchise Fee 3.00% paid to the City of Charleston					1.36
Total Electric Charges				\$	46.61

Miscellaneous Charges/Credits	
Transfer From 1000 WINDSOR SHORES DR APT 3C	\$ 32.35
Total Miscellaneous Charges/Credits	\$ 32.35

If you have questions, you may call us 24 hours a day.
Toll-free # 1-800-251-7234

For gas leaks, downed/sparking power lines, or power outages, you may call us toll free 24 hours a day.
Telephone # 1-888-333-4465

Billing Summary			
Electric Charges	\$	46.61	
Miscellaneous Charges/Credits		32.35	
Total Current Charges	\$	78.96	
Payment Thank You	01/07/08	-32.35	
Balance Brought Forward	\$	-32.35	
Total Amount Due on 02/01/08	\$	46.61	
Balances remaining after 5:00 p.m. on 02/12/08 are subject to late payment charges.			

Account Number:
Statement Date:

Page 2 of 2
January 11, 2008

SPECIAL MESSAGES:

***** VIEW YOUR PAST BILLS AND USAGE HISTORY ONLINE! *****

In addition to giving you the convenience of viewing and paying your current bill online, SCE&G's online account services also allow you to view and compare your past bills, usage history and rates for the last two years. It's one more way SCE&G is working to provide you with the highest level of flexibility and convenience available. Simply visit www.sceg.com. To register you will need your 13-digit SCE&G account number and the online activation code appearing on your bill.

The City of Charleston charges a franchise fee of 3.00% on electric and gas service to addresses inside the City of Charleston limits. SCE&G has included this charge on your bill. If your address is not located inside the City of Charleston, contact SCE&G at 1-866-840-3482.

Electronic check conversion is a more efficient, safe and secure way of processing paper checks. When you mail in a check as payment, you authorize us to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. Funds may be withdrawn from your account on the day we receive your payment and if your information is electronically sent to your bank, you will not receive your check back from your bank. If you do not wish to have your check converted into an electronic debit or if you have any questions about electronic check conversion, please contact SCE&G at 1-800-251-7234.

The Third Party Notification Program is a safety net that allows others to be aware of a situation that may affect your energy service, especially during extreme weather conditions. This program gives you the option of naming another person to receive a copy of any disconnection notice that is sent to you. This person can be anyone you wish, such as friend, relative, neighbor, clergy or even a social agency. **The third party is not responsible for paying the bill.** Please call 1-800-251-7234 to enroll in the Third Party Notification Program or if you have a special need that this program does not cover.

PAYMENT INFORMATION

- Pay by check or money order payable to SCE&G and mail it with the bill stub in the enclosed window envelope.
 - Pay online at www.sceg.com (directly from your bank account). Simply click on Manage Your Account to get started with ePay. It's fast, secure, and free!
 - Pay using your Visa, MasterCard, Discover, Electronic Check, or ATM Debit Cards. Call toll-free 1-800-450-9160, 24 hours a day. There is a fee of \$3.50 per transaction. BillMatrix receives the full amount of the fee as the provider of this service. Additional limitations may apply.
 - Pay in person at one of SCE&G's business offices. Business office location(s) near you are:
MARK CLARK OFFICE 4481 LEEDS PLACE WEST CHARLESTON HEIGHTS SC 29405
 - Pay in person at an authorized payment location. This is a free service. Authorized payment location(s) near you are:
PIGGLY WIGGLY #22 8780A RIVERS AVE. NORTH CHARLESTON SC 29418
- Additional payment centers may exist that are not SCE&G authorized payment locations. While these unauthorized locations may accept your SCE&G payment, they will charge a fee for doing so and your payment will be delayed in reaching SCE&G.

Account Number: [REDACTED]

A late payment charge of 1.5% will be added to any balance remaining 25 days after billing. Please make checks payable to SCE&G.

RG 092 06 6210076880046 15592 **R022
SANDI PERRY
2274 ASHLEY RIVER RD APT 117
CHARLESTON SC 29414-4738

Total Amount Due on 03/03/08	\$ 115.59
Amount Enclosed	

SCE&G
Columbia, SC 29218

62100768800460100000000000002080000011559

IMPORTANT: Please return this portion with your payment so that the return address shows in the envelope window.



Statement Date: February 12, 2008

Page 1 of 2

Account Number: [REDACTED]
Activation Code: 0067

Name: SANDI PERRY
Service Address: 2274 ASHLEY RIVER RD APT 117
CHARLESTON SC 29414-4738

C 15592

Electric Meter read on 02/08/08 at 08:38 A.M. Next reading on or about 03/10/08.

	02/08	02/07
Avg Temp	52	N/A
KWH	1073	N/A
Days	31	N/A
Cost	\$111.81	N/A

Electric - Rate 006 - Energy Saver/Conservation					
Meter #	Billing Period	Days	Meter Reading	Constant	KWH
000544406 - Apartment	Jan 08 - Feb 08	31	92092 to 93165	1	1073
Basic Facilities Charge				\$	8.00
First 800 KWH X \$ 0.094670					75.74
Next 273 KWH X \$ 0.090880					24.81
Subdivision Lighting					3.67
Franchise Fee 3.00% paid to the City of Charleston					3.37
Total Electric Charges				\$	115.59

If you have questions, you may call us 24 hours a day.
Toll-free # 1-800-251-7234

For gas leaks, downed/sparking power lines, or power outages, you may call us toll free 24 hours a day.
Telephone # 1-888-333-4465

Billing Summary			
Electric Charges	\$	115.59	
Total Current Charges		\$	115.59
Previous Bill Amount	\$	46.61	
Payment Thank You	01/17/08	-46.61	
Balance Brought Forward		\$.00
Total Amount Due on 03/03/08	\$	115.59	
Balances remaining after 5:00 p.m. on 03/12/08 are subject to late payment charges.			

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In addition to giving you the convenience of viewing and paying your current bill online, SCE&G's online account services also allow you to view and compare your past bills, usage history and rates for the last two years. It's one more way SCE&G is working to provide you with the highest level of flexibility and convenience available. Simply visit www.sceg.com. To register you will need your 13-digit SCE&G account number and the online activation code appearing on your bill.

Account Number:
Statement Date:

Page 2 of 2

February 12, 2008

Electronic check conversion is a more efficient, safe and secure way of processing paper checks. When you mail in a check as payment, you authorize us to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. Funds may be withdrawn from your account on the day we receive your payment and if your information is electronically sent to your bank, you will not receive your check back from your bank. If you do not wish to have your check converted into an electronic debit or if you have any questions about electronic check conversion, please contact SCE&G at 1-800-251-7234.

The Third Party Notification Program is a safety net that allows others to be aware of a situation that may affect your energy service, especially during extreme weather conditions. This program gives you the option of naming another person to receive a copy of any disconnection notice that is sent to you. This person can be anyone you wish, such as friend, relative, neighbor, clergy or even a social agency. **The third party is not responsible for paying the bill.** Please call 1-800-251-7234 to enroll in the Third Party Notification Program or if you have a special need that this program does not cover.

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 - Pay online at www.sceg.com (directly from your bank account). Simply click on Manage Your Account to get started with ePay. It's fast, secure, and free!
 - Pay using your Visa, MasterCard, Discover, Electronic Check, or ATM Debit Cards. Call toll-free 1-800-450-9160, 24 hours a day. There is a fee of \$3.50 per transaction. BillMatrix receives the full amount of the fee as the provider of this service. Additional limitations may apply.
 - Pay in person at one of SCE&G's business offices. Business office location(s) near you are:
MARK CLARK OFFICE 4481 LEEDS PLACE WEST CHARLESTON HEIGHTS SC 29405
 - Pay in person at an authorized payment location. This is a free service. Authorized payment location(s) near you are:
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- Additional payment centers may exist that are not SCE&G authorized payment locations. While these unauthorized locations may accept your SCE&G payment, they will charge a fee for doing so and your payment will be delayed in reaching SCE&G.

SCE&G CERTIFICATE OF ELECTRIC METER TEST

Meter Number: 544406 Test Date: 11/7/2008
Customer: Sandi Perry
Address: 2274 Ashley River Rd City: Charleston
Account Number: [REDACTED]
Dial Reading (Index): 98702
Test Board Number: 05

Full Load % Registration: 99.74
Light Load % Registration: 99.62
Weighted Average % Registration: 99.72

Tested at Customer Request: Y
Tested at Company Request:

Remarks: Defective bottom guide causing slight under-registration;

SCE&G Remarks: Results to Marsha Klatt; Tested for ORS; non-witness test; D5S meter

Tested By: Kenneth B Frick

Approved: Jerry Smith

This is to certify that the above listed meter was tested in SCE&G's electric meter test laboratory. All equipment used in this test has been calibrated with instruments whose accuracy can be traced to the National Institute of Standards and Testing (NIST). The limits of accuracy for watt-hour meters are governed by the South Carolina Public Service Commission.

Explanation of High Bill Test

To determine the accuracy of a meter, the meter is tested at two test points, one representing normal load conditions and another representing light load conditions. The result of the normal load condition test is noted as FULL LOAD % REGISTRATION. The result of the light load condition test is noted as LIGHT LOAD % REGISTRATION. The overall accuracy of the meter is indicated by WEIGHTED AVERAGE % REGISTRATION.

WEIGHTED AVERAGE % REGISTRATION = [(4 X FL %Registration) + LL %Registration] / 5

The WEIGHTED AVERAGE % REGISTRATION is the value that is used to determine if billing adjustments are necessary. Test results greater than 100 indicate that the meter is running FAST. Test results less than 100 indicate that the meter is running SLOW.

S.C. Public Service Commission regulation 103-340 requires adjustment of customer's bill for errors in percent registration greater than 2%.

SCE&G Copy

Form MT-399 (12-01)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-25-E

IN RE:

Sandi Perry,

Complainant/Petitioner,

v.

South Carolina Electric & Gas Company,

Defendant/Respondent.

AFFIDAVIT

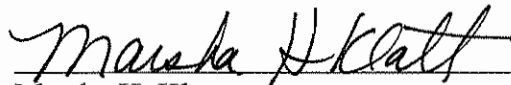
Personally appeared before me Marsha H. Klatt who, having first been duly sworn, deposes and states as follows:

1. My name is Marsha H. Klatt and I am a Senior Analyst for South Carolina Electric & Gas Company ("SCE&G" or "Company"). Among other things, I am responsible for the investigation of customer complaints received through the South Carolina Office of Regulatory Staff as well as customer complaints filed with the Public Service Commission of South Carolina ("Commission") requesting a hearing before the Commission. I am competent to make this affidavit.


2. This affidavit is based upon my personal knowledge and review of documents received and maintained in the ordinary course of business by SCE&G. I am familiar with the records of SCE&G that pertain to Ms. Sandi Perry and have personally worked on the documents and records concerning Ms. Perry.

3. I assisted SCE&G's attorney in preparing the Company's Answer to the Complaint of Ms. Perry filed with the Commission on or about December 29, 2008 as well as SCE&G's Motion to Dismiss dated February 25, 2009. I have read the Answer and Motion to Dismiss and verify that the facts contained within the Answer and Motion to Dismiss are true and accurate to best of my knowledge, information and belief.

FURTHER AFFIANT SAYETH NOT.


Marsha H. Klatt

Sworn to and subscribed before me
this 25th day of February, 2009


Notary Public for South Carolina
My Commission Expires: February 24, 2014.